

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUKEN W. GORDON, :
 :
 Plaintiff, : No. 1: CV 01-0331
 :
 v. : (Judge Rambo)
 :
 N. GONZALEZ, *et al.*, : Electronically Filed
 :
 Defendants. :

PLAINTIFF'S MOTION FOR TRIAL CONTINUANCE

____AND NOW comes Plaintiff Juken W. Gordon, through David L. Glassman
his attorney, to request continuance of trial for the following reasons:

1. On January 8, 2004, the Court scheduled this case for the July 2004 trial list.
2. On March 4, 2004, undersigned counsel entered his appearance as counsel for the Plaintiff in order to conduct a merit assessment of the evidence for the Plaintiff at the request of the Court.
3. Undersigned counsel reviewed the examination report by Dr. William Reish of Sun Orthopaedic Physicians dated December 19, 2000.
4. Dr. Reish noted that the Plaintiff had told him of a spinal fracture suffered during a 1997 automobile accident.

5. Dr. Reish also noted that the Plaintiff had told him that U.S.P. - Lewisburg staff had caused the Plaintiff to fall.

6. Dr. Reish reviewed x-rays of the Plaintiff taken by the Bureau of Prisons medical staff.

7. Dr. Reish opined that the Plaintiff suffered from an “old...residual compression fracture[.]”

8. Unfortunately, the apparent conclusion to the transcribed dictation note of Dr. Reish ends in mid-sentence and both he and Dr. Deven Chanmugam, a physician at U.S.P. - Allenwood, signed off on it anyway.

9. On April 12, 2004, undersigned counsel wrote to the business address listed for Dr. Reish in the April 2003 Lewisburg telephone directory to request clarification of his note.

10. On April 16, 2004, Peter Heath, office manager for Sun Orthopaedics, called to inform undersigned counsel that Dr. Reish had retired.

11. In mid-May 2004, a Union County resident informed undersigned counsel of the home address and telephone number for Dr. Reish.

12. On May 26, 2004, a paralegal for undersigned counsel spoke by telephone with Dr. Reish.

13. Dr. Reish declined to answer questions on grounds that he no longer carries medical malpractice insurance, without giving the paralegal a chance to explain that Dr. Reish is not a defendant and that the statute of limitations expired even if Dr. Reish could be a defendant.

14. Mr. Heath has returned none of the last three attempts by undersigned to counsel to contact him to confirm whether Sun Orthopaedics maintains any file notes on the Plaintiff.

15. The Plaintiff has produced a 1998 MRI report from a New York City radiologist who found “[n]o fractures ... of the lumbar vertebrae” stemming from the 1997 auto accident.

16. In May 2004, undersigned counsel consulted Dr. Stanley Askin, an orthopaedic physician in Elkins Park, Pennsylvania.

17. Doctor Askin agreed to review the 1997 Brooklyn MRI and the 2000 BOP x-rays to render his opinion concerning the existence and cause of any “residual” compression fracture to the back of the Plaintiff as noted by Dr. Reish.

18. On May 27, 2004, undersigned counsel faxed a medical release to Omega Diagnostic Imaging of Brooklyn to obtain a copy of their MRI.

19. Plaintiff is in the process of requesting a copy of the BOP x-rays to forward to Dr. Askin.

20. The Court has scheduled a Pretrial Conference for June 10, 2004.

WHEREFORE, plaintiff Juken W. Gordon requests that the Court continue the trial in this matter from the July 2004 Trial List.

Respectfully Submitted,

s/David L. Glassman, Staff Attorney
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Attorney for Plaintiff Juken W. Gordon

Date: June 1, 2004

CERTIFICATE OF SERVICE

_____ I certify that I served today the foregoing “Plaintiff’s Motion for Trial Continuance” upon the following individuals and in the following manner:

VIA ECF EMAIL NOTICE

_____ Michael J. Butler, Assistant U.S. Attorney
U.S. Attorney’s Office
Harrisburg, PA
Email: Michael.J.Butler@usdoj.gov

and

VIA U.S. FIRST-CLASS MAIL

_____ Juken W. Gordon, #05373-088
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P.O. Box 3000
White Deer, PA 17887

and

VIA U.S. FIRST-CLASS MAIL

_____ Charles W. Rubendall, II, Esq.
Chair, FBA *Pro Bono* Committee
Keefer, Wood, Allen & Rahal, LLP
P.O. Box 11963
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s/David L. Glassman, Staff Attorney
Lewisburg Prison Project, Inc.
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Date: June 1, 2004

